

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

205418

STB FINANCE DOCKET NO. 34205

DID # 0101949003



WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC.
-- LEASE, OPERATION, AND FUTURE PURCHASE EXEMPTION --
WEST TEXAS AND LUBBOCK RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

FEE RECEIVED

MAY 17 2002

NOTICE OF OPERATION OF RAIL LINE
INFORMATION REQUIRED BY 49 CFR 1150.31

SURFACE
TRANSPORTATION BOARD

Respectfully submitted,

FILED

MAY 17 2002

SURFACE
TRANSPORTATION BOARD

John D. Heffner
555 Twelfth Street, N.W.
Suite 950N
Washington, DC 20004
(202) 737-4335

Counsel for
West Texas And
Lubbock Railway Company, Inc.

ENTERED
Office of the Secretary

Dated: May 17, 2002

MAY 20 2002

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

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WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC.
-- LEASE, OPERATION, AND FUTURE PURCHASE EXEMPTION --
WEST TEXAS AND LUBBOCK RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

NOTICE OF OPERATION OF RAIL LINE
INFORMATION REQUIRED BY 49 CFR 1150.31

Name and Address of Applicant 49 CFR 1150.33(a)

West Texas and Lubbock Railway Company, Inc.
P.O. Box 618181
Chicago, IL 60661

Applicant's Representative 49 CFR 1150.33(b)

John D. Heffner
Law Offices of John D. Heffner
555 Twelfth Street, N.W.
Suite 950N
Washington, D.C. 20004
(202) 737-4335

Statement of Agreement(s) 49 CFR 1150.33(c)

West Texas and Lubbock Railway Company, Inc.
("Railway") expects to sign an agreement very shortly with West

Lubbock Railroad Company, Inc. ("Railroad")¹ whereby Railway will lease from Railroad and operate approximately 107 miles² of railroad owned by Railroad and extending between (1) MP 06.3 on the outskirts of Lubbock and the end of the line at MP 63.8 at Seagraves and (2) between MP 3.2 at Lubbock and MP 38.9 at Whiteface, all located in the State of Texas. The transaction also includes the assignment of approximately 5 miles of trackage rights Railroad presently holds over the Burlington Northern And Santa Fe Railway between BNSF MP 83.6 at Broadview and BNSF MP 88.6 at Canyon Junction in the vicinity of Lubbock, TX. These trackage rights shall be used for the purpose of interchange only.

Railway intends to commence operations on or about May 24, 2002.

Operator of the Property

49 CFR 1150.33(d)

In all cases anticipated by this Notice, and as described in the transaction summary provided below, Railway will provide common carrier rail freight service over the subject rail

-
- 1 Railroad's address is as follows:

West Texas and Lubbock Railway, Inc.
c/o RailAmerica, Inc.
5300 Broken Sound Boulevard NW,
Boca Raton, FL 33487

- ² Due to a track relocation project the mileposts do not accurately reflect the actual length of the rail line.

line.

Brief Summary of Transaction

49 CFR 1150.33(e)

Railway very shortly expects to sign an agreement with Railroad for lease and operation (with a future purchase option) of the subject rail line. The line to be leased and operated by Railway extends between (1) MP 06.3 on the outskirts of Lubbock and the end of the line at Seagraves at MP 63.8 and (2) between MP 3.2 at Lubbock and at MP 38.9 at Whiteface, all located in the State of Texas. The transaction also includes the assignment of approximately 5 miles of trackage rights (for interchange purposes only) Railroad presently holds over the Burlington Northern And Santa Fe Railway between BNSF MP 83.6 at Broadview and BNSF MP 88.6 at Canyon Junction in the vicinity of Lubbock, TX. The parties will consummate the subject transaction on or about May 24, 2002.

Concurrently with this filing, Railway's corporate parent, Permian Basin Railways, Inc. ("Permian"), is submitting an exemption notice under 49 CFR 1180.2(d)(2) to continue in control of Railway and the Austin & Northwestern Railroad Company, Inc. This proceeding has been docketed as Finance Docket No. 34206.

This transaction qualifies for a class exemption under 49 CFR 1150.31 et seq., because it involves the lease and

operation by a noncarrier and newly established class III short line rail carrier of an active line of railroad. In addition, Railway's option to purchase the subject line also qualifies for an exemption at this time under Board precedent. See, Finance Docket No. 33969, Lancaster and Chester Railway Company-Lease and Operation Exemption-Norfolk Southern Railway Company (served Feb. 7, 2001, also granting an exemption for the future purchase of the line). Issuance of a class exemption under 49 CFR 1150.31 will permit Railway to assume promptly service presently provided by Railroad.

Map

49 CFR 1150.33(f)

A Map depicting the area to be served is attached as Exhibit A.

Certificate of Carrier Classification **49 CFR 1150.33(g)**

Railway hereby certifies that its projected annual revenues will be less than \$5,000,000, within the Board's ceiling for classification as a class III railroad. A certificate complying with the provisions of 49 CFR 1150.33(g) is attached as Exhibit B to this notice.

Caption Summary

49 CFR 1150.34

A caption summary in the prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data 49 CFR 1105

Pursuant to 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c)(2)(i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Respectfully submitted,



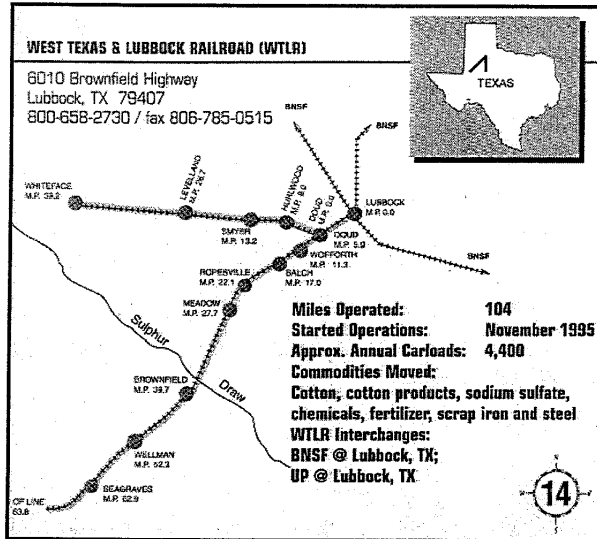
John D. Heffner
555 Twelfth Street, N.W.
Suite 950N
Washington, DC 20004
(202) 737-4335

Counsel for West Texas And
Lubbock Railway Company, Inc.

Dated: May 17, 2002

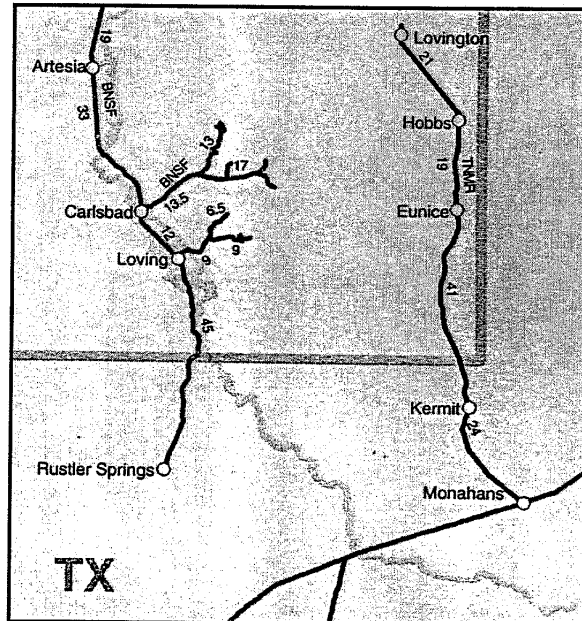
EXHIBIT
A.p1

Maps

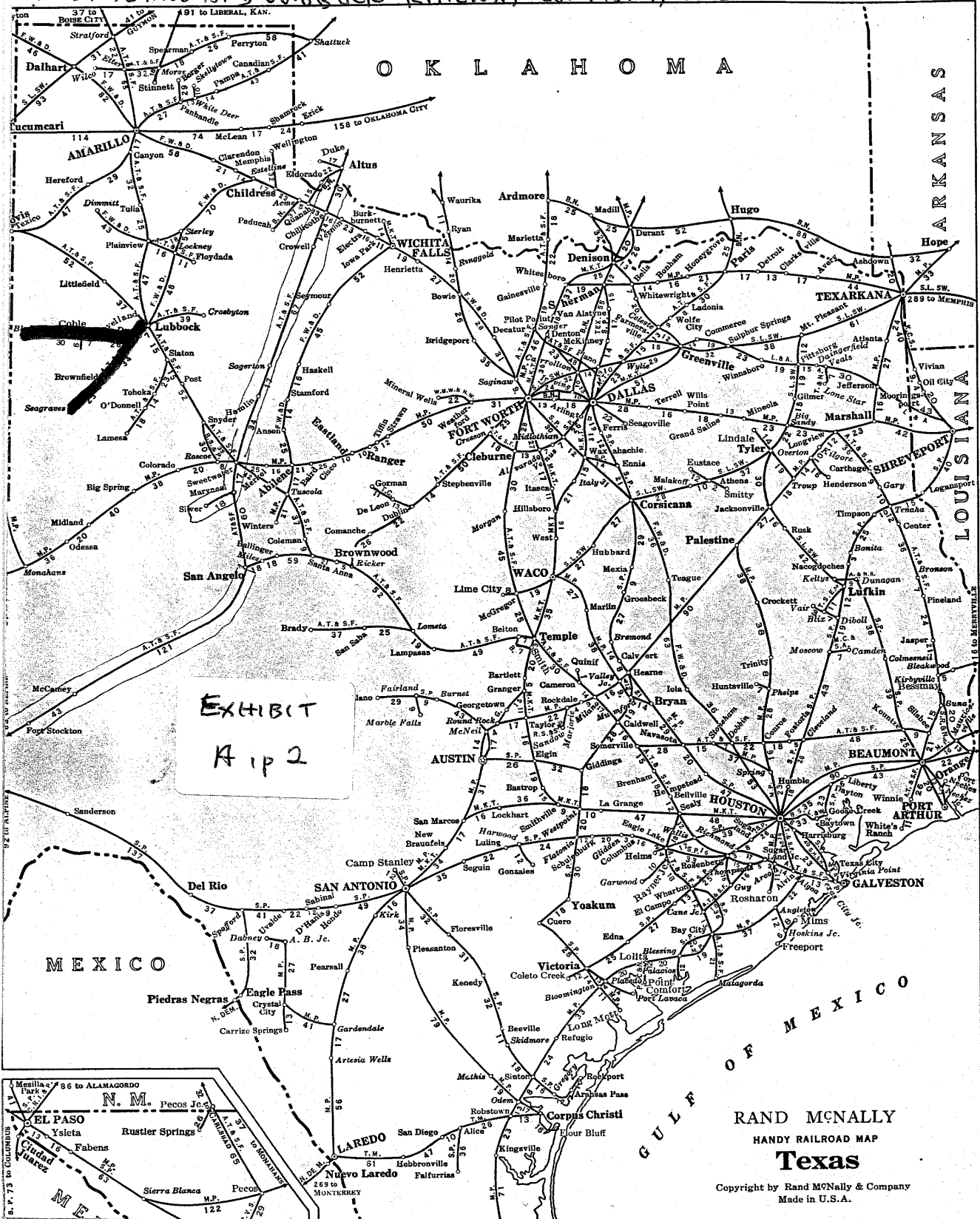


Map 1 - West Texas and
Lubbock Railroad

Map 2 - Texas New Mexico Railroad



WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC.



EXHIBIT

A 1 p 2

RAND McNALLY

HANDY RAILROAD MAP

Texas

Copyright by Rand McNally & Company
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EXHIBIT

B

CERTIFICATION

I, EDWIN ELLIS, an officer of the West Texas and Lubbock Railway ("Railway") hereby certify under penalty of perjury that the projected annual revenues of Railway, in the aggregate, will not exceed \$5,000,000.00, and that Railway will be a Class III rail carrier as set forth at 49 CFR 1201 (1-1) (a). Further, I certify that I am qualified and authorized to make this certification on behalf of Railway.

_____
Signature

EXHIBIT C

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34205

WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC.
-- LEASE, OPERATION, AND FUTURE PURCHASE EXEMPTION --
WEST TEXAS AND LUBBOCK RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

NOTICE OF OPERATION OF RAIL LINE
INFORMATION REQUIRED BY 49 CFR 1150.31

West Texas and Lubbock Railway Company, Inc. ("Railway"), a noncarrier and newly established class III short line railroad, has filed a Verified Notice of Exemption under 49 CFR 1150.31 to lease and operate as a common carrier railroad (with future purchase option) the following rail lines owned by the West Texas and Lubbock Railroad Company, Inc. ("Railroad"):

- (1) between MP 06.3 on the outskirts of Lubbock and the end of the line at Seagraves at MP 63.8;
- (2) between Lubbock at MP 3.2 and Whiteface at MP 38.9; and
- (3) the assignment of trackage rights Railroad presently holds over the Burlington Northern And Santa Fe Railway between BNSF MP 83.6 at Broadview and BNSF MP 88.6 at Canyon Junction in the vicinity of Lubbock, TX. These rights shall be used for interchange purposes only.

The total trackage involved is approximately 107 miles¹ in length and is located in the State of Texas.

Concurrently with this filing, Railway's corporate parent, Permian Basin Railways, Inc., is submitting an exemption notice under 49 CFR 1180.2(d)(2) to continue in control of Railway and the Austin & Northwestern Railroad Company, Inc. This proceeding has been docketed as Finance Docket No. 34206.

The parties propose to consummate this transaction on or after May 24, 2002.

This notice is filed under 49 C.F.R. 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34205 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on:

John D. Heffner
555 Twelfth Street, N.W.
Suite 950N
Washington, D.C. 20004
(202) 737-4335

And

¹ Due to a track relocation project the milepost numbers do not accurately reflect the actual length of the line.

Gary Laakso
RailAmerica, Inc.
5300 Broken Sound Blvd. NW
Boca Raton, FL 33487

(seal)

Vernon A. Williams
Secretary

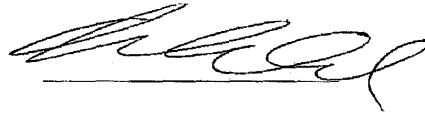
VERIFICATION

STATE OF ILLINOIS)

)

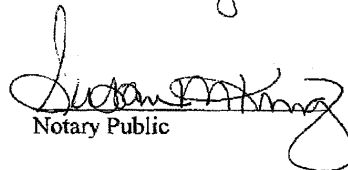
CITY OF CHICAGO)

EDWINELLIS, being duly sworn according to law, hereby deposes and states that he is authorized to make the Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of his knowledge, information and belief.



Subscribed and sworn to before me, a Notary Public, in and for the City of Chicago in the State of Illinois this 17 day of May




Notary Public

My Commission expires:

Jan 11, 2023